

IN THE MATTER OF ROBERT ANTHONY PARRY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr L N Gilford (in the chair)  
Mr J R C Clitheroe  
Mr G Fisher

Date of Hearing: 17th April 2009

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Solicitors Regulation Authority by David Elwyn Barton solicitor in his own practice of 17 Lower Stone Street, Maidstone, Kent ME15 6JX on 1<sup>st</sup> December 2008 that Robert Anthony Parry, solicitor of Knowle, Solihul, West Midlands, previously of Whitley Hill, Henley-in-Arden, might be required to answer the allegations contained in the statement that accompanied the Applicant that such Order might be made as the Tribunal might think right.

The allegations were:

1. Contrary to Principle 17.01 of the Guide to the Professional Conduct of Solicitors 8<sup>th</sup> Edition he had:
  - (a) acted in his professional capacity or otherwise towards another namely Svenska Handelsbanken in a way which was fraudulent, deceitful or otherwise contrary to his position as a solicitor;
  - (b) used his position as a solicitor to take unfair advantage for himself. In doing so the Respondent was also dishonest.
2. Contrary to Rule 1 (a) and (d) of the Solicitors Practice Rules 1990 he had compromised or impaired his integrity, his good repute and that of the solicitors' profession. He has also been dishonest.

3. Contrary to Rule 20.03 of the Solicitors Code of Conduct 2007 he had failed to deal with the authority in an open, prompt and cooperative way.
4. Contrary to Rule 1 of the Solicitors Code of Conduct 2007 he had failed to act with integrity. He was dishonest.

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 17<sup>th</sup> April 2009 when David Elwyn Barton appeared as the Applicant. The Respondent did not attend and was not represented.

The evidence before the Tribunal included the admissions of the Respondent received by way of correspondence from his representatives. The Respondent admitted all the allegations.

**At the conclusion of the hearing the Tribunal made the following Order:**

The Tribunal Orders that the respondent, Robert Anthony Parry of Knowle, Solihull, West Midlands, B3 9PN, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,748.06.

**The facts are set out in paragraphs 1-21 hereunder:**

1. The Respondent was born on 6<sup>th</sup> May and was admitted as a solicitor on 1<sup>st</sup> March 1984. His name remains on the Roll of Solicitors.
2. At times material to this application the Respondent was a partner in Heatons LLP solicitors of 5<sup>th</sup> Floor, Free Trade Exchange, 37 Peter Street, Manchester M2 5GB (April 2002 to 31<sup>st</sup> March 2006), Clarke Willmott Solicitors of 138 Edmund Street, Birmingham, B3 2ES (1<sup>st</sup> April 2006 to February 2007) and Wright Hassall of Leamington Spa (February 2007 to 30<sup>th</sup> November 2007). The Respondent is not now working as a solicitor, and was made bankrupt on 21<sup>st</sup> April 2008 in the Warwick County Court.
3. The last address of the Respondent known is Knowle, Solihul, West Midlands.
4. The Respondent was a partner with Heatons LLP Solicitors from April 2002 until about 31<sup>st</sup> March 2006 when he resigned and joined Clarke Willmott Solicitors as a partner. He resigned from that firm in February 2007. He joined Wright Hassall LLP until his resignation on or about the 30<sup>th</sup> November 2007.
5. The affidavit of AB indicated that the Respondent borrowed various sums of money from SH Bank which he failed to repay and which by 6<sup>th</sup> December 2007 with interest totalled £252,454.36.
6. The Respondent met AB in around August 2005 and told him, correctly, that he was an equity partner in Heatons. He took a loan for the purchase of a car and stated to AB that he had a partnership capital account in Heatons with a value of £125,000. He stated he wanted to refinance a loan taken from L Bank for £75,000 to introduce that capital. AB agreed to lend him £125,000.

7. The bank took an undertaking from MDF one of the Respondent's partners. MDF did not sign the undertaking and his signature was forged.
8. In his affidavit, AB referred to a letter addressed to him dated 28<sup>th</sup> November 2007. It was from MDF and stated that the Respondent did not have a loan from L Bank for £75,000 to enable him to introduce his capital, but rather he took out a loan from the C Bank for £125,000. Heatons had given an undertaking to C Bank to repay the loan should the Respondent retire from the partnership which he did on the 31<sup>st</sup> March 2006, and with which they complied on 5<sup>th</sup> April 2006. MDF did not know of the loan or sign the undertaking to the SH bank and his signature was forged.
9. The Respondent misrepresented to AB in August 2005 that he needed a loan to refinance.
10. The misrepresentations continued because in August 2006 the Respondent stated to AB that he was leaving Heatons but he had already left on 31<sup>st</sup> March. He stated he would be joining Clarke Willmott and that he needed to introduce capital of £55,000. He stated he needed a loan of £50,000 and that his capital from Heatons would be repaid to him 12 months after his departure. AB agreed to make a further loan and as before obtained an undertaking said to be signed by DS. That was dated 16<sup>th</sup> October 2006.
11. The untruths were that the Respondent would receive capital from Heatons (it was represented by a loan from C Bank which Heatons discharged), that he was leaving in August 2006 whereas he had left on 31<sup>st</sup> March 2006, and that he was required to pay £50,000 as capital. He was required to pay only £500. As with MDF's letter. DS did not sign the undertaking. His signature was also forged.
12. A further misrepresentation was made in December 2006 when the Respondent gave his address as The Blossoms. This property was sold in October 2006 and he purchased Ashleigh House jointly with his wife in the same month. The ledger in Tab F showed the receipt of £41,000 into client account at Clarke Willmott on 16<sup>th</sup> October 2006 (the same date as the undertaking described above) and its use on the 17<sup>th</sup> to fund the purchase. The Respondent had misused money advanced to him.
13. In February or March 2007 the Respondent told AB that he was unhappy at Clarke Willmott and would be moving to Wright Hassall. He stated, falsely, that when his capital had been repaid by Heatons and Clarke Willmott he would repay the Bank. This was a further false and deliberate misrepresentation. There was no capital in either firm.
14. In November 2007 and afterwards, the Respondent failed to attend meetings he had agreed to (this conduct postdates the coming into force of the Code of Conduct on 1<sup>st</sup> July 2007) and failed to make any repayments.
15. At each stage described above he lied to AB and obtained loans which he failed to repay.
16. The bankruptcy petition was presented by Wright Hassall.

17. He was asked for his explanation by letter dated 7<sup>th</sup> February 2008 but refused to provide an explanation.
18. By decision of the adjudicator dated 11 April 2008 the Respondent was referred to the Tribunal.
19. The Applicant submitted a letter to the Tribunal dated 15 April 2009 indicating that he admitted all the allegations and that he would not be attending the hearing.

### **The Submissions of the Applicant**

20. The Respondent had submitted to the Tribunal, through his representatives, admissions in relation to all the allegations. He had indicated that he had resigned his position as a solicitor and indeed had not worked as a solicitor since November 2007. He was declared bankrupt by Warwick County Court on 21<sup>st</sup> April 2008. The Applicant relied on the evidence of AB and of SH Bank about the Respondent's conduct. The Respondent's conduct was characterised by a series of lies and untruths. The Respondent did not challenge that evidence by filing a counter notice.
21. The Respondent used monies that he had obtained by making misrepresentations to banks, for the purpose of purchasing properties privately. The evidence points to only one conclusion in relation to the forged signatures, namely that the Respondent was responsible. He has refused to answer the allegation because he is concerned it will have criminal implications for him. He has had an opportunity to deny the allegation but has not done so. There was no direct evidence that the Respondent was responsible for the forgeries but the Tribunal was invited to draw an irresistible conclusion that that was the case. The Tribunal was asked to note the significance of the Respondent's admissions, but also his failure to deny his responsibility for the forgeries. Dishonesty and fraudulent deceit had been alleged against the Respondent, which he had been silent on.

### **The Submissions of the Respondent**

22. The Respondent did not attend the hearing but his representatives submitted two letters to the Tribunal on his behalf. The Respondent was no longer working as a solicitor and indicated that he was willing to enter into an agreement whereby his name was struck off the Roll of Solicitors and that he would not apply for restoration to the Roll. He maintained that he had dealt with client's funds and business dealings in an open and honest manner and no client monies had ever been at risk. When he was no longer able to meet the repayments to the bank, he immediately resigned from the firm and no longer practiced as a solicitor. The bankruptcy order would remain in force for 12 years.
23. He explained that as a result of what had occurred he suffered stress and depression for which he had been receiving counselling and his family had also suffered a great deal and he invited the Tribunal to deal with him sympathetically. The Respondent asked the Tribunal to note that much of what had occurred related to the period prior to November 2007. He apologised for what had occurred and expressed genuine regret. He had not set out (deliberately) to bring the profession into disrepute and the effects on him and his family had been far reaching.

### **The Findings of the Tribunal**

24. The Tribunal were mindful of the representations made to it by the Respondent, but there were repetitive aspects to the Respondent's conduct which had started at Heatons and which continued at Clarke Willmott that could not be ignored. By the Respondent's letter to the Tribunal dated 23<sup>rd</sup> January 2009 he had admitted all the allegations, including the allegation that he had been dishonest, and had not sought to deny the factual matrix that formed the basis of the evidence. He admitted that he had failed to act with integrity, failed to deal with the authority in an open and co-operative manner and that he had taken unfair advantage of his position as a solicitor.
25. Since dishonesty had been alleged against the Respondent the Tribunal took into account Lord Hutton's comments in the case of Twinsectra v Yardley and Others [2002] UKHL 12, that "before there can be a finding of dishonesty it must be established that the defendant's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest". The Tribunal was satisfied so as to be sure that the "combined test" as set out by Lord Hutton had been met. In addition to the Respondent's admissions, there was evidence of the Respondent using his position as a solicitor to take unfair advantage for himself and he had failed to act with integrity, the Tribunal regarded this as a clear case of the Respondent having been dishonest.
26. The Tribunal Ordered that the Respondent, Robert Anthony Parry of Knowle, Solihull, West Midlands, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,748.06.

Dated this 29<sup>th</sup> day of June 2009  
On behalf of the Tribunal

Mr L N Gilford  
Chairman